

Representative John Dougall proposes the following substitute bill:

REDUCTIONS TO EDUCATION MANDATES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to public school funding, administration, and reporting requirements.

Highlighted Provisions:

This bill:

- ▶ exempts school districts and charter schools from the requirement to administer the tenth grade basic skills competency test for two years;
- ▶ modifies the requirements to obtain a basic high school diploma for two years;
- ▶ exempts a local school board from the requirement to develop and administer certain activity disclosure statements for two years;
- ▶ exempts a school district from certain requirements related to the disposal of textbooks for two years;
- ▶ exempts a local school board from the requirement to prepare and present an annual presentation on adoption for two years;
- ▶ exempts a school district from certain requirements related to an independent evaluation of the purchasing of instructional materials for two years;
- ▶ eliminates the requirement to administer criterion-referenced tests for students in

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the second grade;

- ▶ exempts the State Board of Education and public schools from complying with certain school performance reporting requirements for two years;
- ▶ requires the State Board of Education to review mandates or requirements in board rule to determine if certain mandates could be waived for two years;
- ▶ amends provisions related to the transportation levy;
- ▶ amends provisions related to a school district's or charter school's requirement to file certain information on the Utah Public Finance Website to allow a public school two years before complying with the requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-1-401, as last amended by Laws of Utah 2005, First Special Session, Chapter 2

53A-1-602, as last amended by Laws of Utah 2009, Chapter 300

53A-1-603, as last amended by Laws of Utah 2009, Chapter 300

53A-1-611, as last amended by Laws of Utah 2009, Chapter 277

53A-3-420, as last amended by Laws of Utah 2007, Chapter 114

53A-3-602.5, as last amended by Laws of Utah 2009, Chapters 299 and 300

53A-12-207, as enacted by Laws of Utah 1991, Chapter 106

53A-13-107, as last amended by Laws of Utah 2002, Chapter 279

53A-14-107, as last amended by Laws of Utah 2008, Chapter 397

53A-17a-127, as last amended by Laws of Utah 2009, Chapter 391

63A-3-405, as enacted by Laws of Utah 2009, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53A-1-401** is amended to read:

53A-1-401. Powers of State Board of Education -- Adoption of rules --

Enforcement.

(1) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Article X, Sec. 3, of the Utah Constitution means directed to the whole system.

(2) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(3) The board may adopt rules and policies in accordance with its responsibilities under the constitution and state laws, and may interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with this Subsection (3).

(4) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (4)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (4)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (4)(a) and related matters during the next following session of the Legislature.

(5) The board shall develop policies and procedures related to federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

(6) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.

Section 2. Section **53A-1-602** is amended to read:

53A-1-602. Definitions.

As used in this part:

(1) (a) "Achievement test" means a standardized test which measures or attempts to measure the level of performance which a student has attained in one or more courses of study.

(b) "Achievement test" includes a norm-referenced or criterion-referenced test.

(2) "Basic skills course" means a subject which requires mastery of specific functions, as defined under rules made by the State Board of Education, to include reading, language arts, mathematics through intermediate algebra, science, in grades 4 through 12, and effectiveness of written expression.

(3) "Utah Performance Assessment System for Students" or "U-PASS" means:

(a) systematic norm-referenced achievement testing of all students in grades 3, 5, and 8 required by this part in all schools within each school district by means of tests designated by the State Board of Education;

(b) criterion-referenced achievement testing of students in grades ~~[2]~~ 3 through 12 in basic skills courses;

(c) an online writing assessment in grades 5 and 8;

(d) a tenth grade basic skills competency test as detailed in Section 53A-1-611;

(e) the use of student behavior indicators in assessing student performance; and

(f) ~~[beginning with the 2007-08 school year,]~~ testing of students in grade 3 to measure reading grade level.

Section 3. Section **53A-1-603** is amended to read:

53A-1-603. Duties of State Board of Education.

(1) Except as provided in Subsection (5), the State Board of Education shall:

(a) require each school district and charter school to implement the Utah Performance Assessment System for Students, hereafter referred to as U-PASS;

(b) require the state superintendent of public instruction to submit and recommend criterion-referenced and norm-referenced achievement tests, a tenth grade basic skills competency test, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to each school district and charter school by the state superintendent;

(c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades ~~[2]~~ 3 through 12 in mastering basic skills courses; and

(d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.

(2) Except as provided in Subsection (5) and Subsection 53A-1-611(6), under U-PASS, the state office shall annually require that each district and charter school, as applicable, administer:

- (a) a statewide norm-referenced test to all students in grades 3, 5, and 8;
- (b) statewide criterion-referenced tests in grades [~~2~~] 3 through 12 and courses in basic skill areas of the core curriculum;
- (c) an online writing assessment to all students in grades 5 and 8;
- (d) a tenth grade basic skills competency test as detailed in Section 53A-1-611; and
- (e) a test to all students in grade 3 to measure reading grade level.

(3) The board shall adopt rules for the conduct and administration of U-PASS to include the following:

(a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;

(b) security features to maintain the integrity of the system, which could include statewide uniform testing dates, multiple test forms, and test administration protocols;

(c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publically reported at a district level;

(d) compiling of criterion-referenced and online writing test scores and test score averages at the classroom level to allow for:

(i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;

(ii) the assessment of year-to-year student progress in specific classes, courses, and subjects;

(iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year; and

(iv) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsections (3)(d)(i), (ii), and (iii), without violating the integrity of U-PASS;

and

(e) providing that:

(i) scores on the tests and assessments required under Subsection (2)(b) shall be considered in determining a student's academic grade for the appropriate course and whether a student shall advance to the next grade level; and

(ii) except as provided in Subsection 53A-1-611(6), the student's score on the tenth grade basic skills competency test shall be recorded on the student's transcript of credits.

(4) The State Board of Education shall consider administering the basic skills competency test on a Saturday to preserve instructional time.

(5) (a) The State Board of Education may exempt a school district or charter school from the testing requirements specified in Subsection (2) if the school district or charter school pilots an assessment system that incorporates:

(i) online classroom-based assessment that utilizes adaptive testing in all grades;

(ii) online writing assessments in grades 4 through 12; and

(iii) assessments administered in grades 8, 10, and 11 to determine readiness for postsecondary education.

(b) A school district or charter school that receives an exemption under Subsection (5)(a) is subject to an accountability plan and high school graduation standards that are:

(i) based on the assessment system described in Subsections (5)(a)(i) through (iii); and

(ii) developed and adopted by the State Board of Education.

(c) By the November 2009 meeting of the Education Interim Committee, the State Board of Education shall submit recommendations to the committee on the state's assessment system.

(d) The State Board of Education may only provide the following exemptions under this Subsection (5):

(i) up to three rural school districts;

(ii) up to two urban school districts; and

(iii) up to five charter schools.

(6) (a) A school district or charter school, as applicable, is encouraged to administer an online writing assessment to students in grade 11.

(b) The State Board of Education may award a grant to a school district or charter

school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.

Section 4. Section **53A-1-611** is amended to read:

53A-1-611. Standards and assessment processes to measure student performance
-- Basic skills competency test.

(1) The Legislature recognizes the need for the State Board of Education to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) (a) In addition to its responsibilities under Sections 53A-1-603 through 53A-1-605, the State Board of Education, through the state superintendent of public instruction, shall design a basic skills competency test to be administered in the tenth grade.

(b) Except as provided in [~~Subsection (5)~~] Subsections (5) and (6) and Section 53A-11-1404, a student must pass the basic skills competency test, in addition to the established requirements of the state and local board of education of the district in which the student attends school, in order to receive a basic high school diploma of graduation.

(c) The state board shall include in the test, at a minimum, components on English language arts and reading and mathematics.

(d) Except as provided in [~~Subsection (5)~~] Subsections (5) and (6) and Section 53A-11-1404, a student who fails to pass all components of the test may not receive a basic high school diploma but may receive a certificate of completion or alternative completion diploma under rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) The state board shall make rules:

(i) to allow students who initially fail the test to retake all or part of the test; and

(ii) that take into account and are consistent with federal law relating to students with disabilities in the administration of the test.

(3) The state board shall implement the tenth grade basic skills competency test, no later than the beginning of the 2003-04 school year.

(4) The requirements of this section are to be complementary to the other achievement testing provisions of this part.

(5) A student enrolled in a school district or charter school that is exempt from

administering the tenth grade basic skills competency test is subject to high school graduation standards adopted by the State Board of Education pursuant to Section 53A-1-603.

(6) (a) A student is exempt from the requirements of Subsection (2) if:

(i) the student is enrolled in the tenth grade during:

(A) the 2010-11 school year; or

(B) the 2011-12 school year; or

(ii) the student:

(A) was enrolled in the tenth grade during:

(I) the 2008-09 school year; or

(II) the 2009-10 school year; and

(B) did not pass the tenth grade basic skills competency test while the student was in tenth grade.

(b) School districts and charter schools are exempt from administering the tenth grade basic skills competency test during the 2010-11 and 2011-12 school year.

Section 5. Section **53A-3-420** is amended to read:

53A-3-420. Activity disclosure statements.

(1) ~~[A]~~ For a school year beginning with or after the 2012-13 school year, a local school board shall require the development of activity disclosure statements for each school-sponsored group or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.

(2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents or legal guardians or to both students and their parents.

(3) An activity disclosure statement shall contain the following information:

(a) the specific name of the team, group, or activity;

(b) the maximum number of students involved;

(c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;

(d) beginning and ending dates of the activity;

(e) a tentative schedule of the events, performances, games, or other activities with

242 dates, times, and places specified if available;

243 (f) if applicable, designation of any nonseason events or activities, including an
244 indication of the status, required, expected, suggested, or optional, with the dates, times, and
245 places specified;

246 (g) personal costs associated with the activity;

247 (h) the name of the school employee responsible for the activity; and

248 (i) any additional information considered important for the students and parents to
249 know.

250 Section 6. Section **53A-3-602.5** is amended to read:

251 **53A-3-602.5. School performance report -- Components -- Annual filing.**

252 (1) [The] For a school year beginning with or after the 2012-13 school year, the State
253 Board of Education in collaboration with the state's school districts and charter schools shall
254 develop a school performance report to inform the state's residents of the quality of schools and
255 the educational achievement of students in the state's public education system.

256 (2) The report described in Subsection (1) shall be written and include the following
257 statistical data for each school in each school district and each charter school, as applicable,
258 and shall also aggregate the data at the district and state level:

259 (a) except as provided in Subsection (2)(a)(ii), test scores over the previous year on:

260 (i) norm-referenced achievement tests;

261 (ii) criterion-referenced tests to include the scores aggregated for all students:

262 (A) by grade level or course for the previous two years and an indication of whether
263 there was a sufficient magnitude of gain in the scores between the two years; and

264 (B) by class;

265 (iii) online writing assessments required under Section 53A-1-603; and

266 (iv) tenth grade basic skills competency tests required under Section 53A-1-603;

267 (b) college entrance examinations data, including the number and percentage of each
268 graduating class taking the examinations for the previous four years;

269 (c) advanced placement and concurrent enrollment data, including:

270 (i) the number of students taking advanced placement and concurrent enrollment
271 courses;

272 (ii) the number and percent of students taking a specific advanced placement course

273 who take advanced placement tests to receive college credit for the course;

274 (iii) of those students taking the test referred to in Subsection (2)(c)(ii), the number and
275 percent who pass the test; and

276 (iv) of those students taking a concurrent enrollment course, the number and percent of
277 those who receive college credit for the course;

278 (d) the number and percent of students in grade 3 reading at or above grade level;

279 (e) the number and percent of students who were absent from school 10 days or more
280 during the school year;

281 (f) achievement gaps that reflect the differences in achievement of various student
282 groups as defined by State Board of Education rule;

283 (g) the number and percent of "student dropouts" within the district as defined by State
284 Board of Education rule;

285 (h) course-taking patterns and trends in secondary schools;

286 (i) student mobility;

287 (j) staff qualifications, to include years of professional service and the number and
288 percent of staff who have a degree or endorsement in their assigned teaching area and the
289 number and percent of staff who have a graduate degree;

290 (k) the number and percent of parents who participate in SEP, SEOP, and
291 parent-teacher conferences;

292 (l) average class size by grade level and subject;

293 (m) average daily attendance as defined by State Board of Education rule, including
294 every period in secondary schools; and

295 (n) enrollment totals disaggregated with respect to race, ethnicity, gender, limited
296 English proficiency, and those students who qualify for free or reduced price school lunch.

297 (3) ~~[The]~~ For a school year beginning with or after the 2012-13 school year, the State
298 Board of Education, in collaboration with the state's school districts and charter schools, shall
299 provide for the collection and electronic reporting of the following data for each school in each
300 school district and each charter school:

301 (a) test scores and trends over the previous four years on the tests referred to in
302 Subsection (2)(a);

303 (b) the average grade given in each math, science, and English course in grades 9

through 12 for which criteria-referenced tests are required under Section 53A-1-603;

(c) incidents of student discipline as defined by State Board of Education rule, including suspensions, expulsions, and court referrals; and

(d) the number and percent of students receiving fee waivers and the total dollar amount of fees waived.

(4) (a) (i) The State Board of Education shall adopt common definitions and data collection procedures for local school boards and charter schools to use in collecting and forwarding the data required under Subsections (2) and (3) to the state superintendent of public instruction.

(ii) Average class size by grade and subject shall be calculated for the purposes of Subsection (2)(l) in accordance with the following:

(A) for kindergarten through grade six, average class size by grade shall be calculated by dividing grade membership on October 1 by the number of classes in the corresponding grade; and

(B) for grades seven through 12, average class size shall be calculated for core language arts, mathematics, and science courses by dividing membership on October 1 in core language arts, mathematics, or science course classes by the number of classes for the corresponding course.

(b) The state board, through the state superintendent of public instruction, shall adopt standard reporting forms and provide a common template for collecting and reporting the data, which shall be used by all school districts and charter schools.

(c) The state superintendent shall use the automated decision support system referred to in Section 53A-1-301 to collect and report the data required under Subsections (2) and (3).

(5) [~~The state board~~] For a school year beginning with or after the 2012-13 school year, the State Board of Education, through the state superintendent of public instruction, shall issue its report annually by October 1 to include the required data from the previous school year or years as indicated in Subsections (2) and (3).

(6) (a) Each local school board and each charter school shall receive a written or an electronic copy of the report from the state superintendent of public instruction containing the data for that school district or charter school in a clear summary format and have it distributed, on a one per household basis, to the residence of students enrolled in the school district before

November 30th of each year.

(b) Each local school board, each charter school, and the state board shall have a complete report of the statewide data available for copying or in an electronic format at their respective offices.

Section 7. Section **53A-12-207** is amended to read:

53A-12-207. Disposal of textbooks.

~~[(A)]~~ (1) For a school year beginning with or after the 2012-13 school year, a local school district may not dispose of textbooks used in its public schools without first notifying all other school districts in the state of its intent to dispose of the textbooks. ~~[This provision]~~

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) The State ~~[Office]~~ Board of Education ~~[with]~~ shall develop rules and procedures directing the disposal of textbooks.

Section 8. Section **53A-13-107** is amended to read:

53A-13-107. Adoption information.

(1) ~~[Each]~~ For a school year beginning with or after the 2012-13 school year, a local school board shall ensure that an annual presentation on adoption is given to its secondary school students in grades 7-12, so that each student receives the presentation at least once during grades 7-9 and at least once during grades 10-12.

(2) The presentation shall be made by a licensed teacher as part of the health education core.

Section 9. Section **53A-14-107** is amended to read:

53A-14-107. Instructional materials alignment with core curriculum.

(1) ~~[(A)]~~ For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core curriculum adopted under Section 53A-1-402;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the State Board of Education;

(b) the superintendent of public instruction or the State Office of Education;

(c) the State Instructional Materials Commission appointed pursuant to Section 53A-14-101;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 10. Section **53A-17a-127** is amended to read:

53A-17a-127. Eligibility for state-supported transportation -- Approved bus routes -- Additional local tax.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in [~~kindergarten through grade six~~] an elementary school who lives at least 1-1/2 miles from school;

(b) a student enrolled in [~~grades seven through 12~~] a secondary school who lives at least [~~two~~] three miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the State Board of Education for trainable, motor, multiple-disabled, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the State Board of Education, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The State Board of Education shall distribute transportation monies to school districts based on:

- (i) an allowance per mile for approved bus routes;
- (ii) an allowance per hour for approved bus routes; and
- (iii) a minimum allocation for each school district eligible for transportation funding.

(b) The State Board of Education shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53A-17a-126(3).

(c) The State Board of Education shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from local school superintendents, business officials, school district transportation supervisors, and the state superintendent's staff shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) (a) A local school board may provide for the transportation of students ~~[who are not eligible under Subsection (1);]~~ regardless of the distance from school, from:

- (i) general funds of the district; and
- (ii) a tax rate not to exceed .0003 per dollar of taxable value imposed on the district.

(b) A local school board may use revenue from the tax described in Subsection (6)(a)(ii) to pay for transporting ~~[participating students to interscholastic activities, night activities, and educational field trips approved by the board]~~ students and for the replacement of school buses.

(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The state superintendent's staff shall distribute the state contribution according to rules enacted by the State Board of Education.

(d) (i) The amount of state guarantee money which a school district would otherwise be entitled to receive under Subsection (6)(c) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(ii) Subsection (6)(d)(i) applies for a period of two years following the change in the certified tax rate.

Section 11. Section **63A-3-405** is amended to read:

63A-3-405. Participation by local entities.

(1) (a) Not later than May 15, 2010, ~~[the following participating local entities]~~ public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, in conformity with the rules established under Section 63A-3-404, shall provide public financial information through the Utah Public Finance Website or their own website and provide a link to their website through the Utah Public Finance Website[?].

~~[(i) school districts;]~~

~~[(ii) charter schools; and]~~

~~[(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act.]~~

(b) Participating local entities subject to this Subsection (1) shall permit information that is generated not later than the fiscal year that begins July 1, 2009 to be accessible via the website.

(2) (a) Not later than May 15, 2011, the following participating local entities, in conformity with the rules established under Section 63A-3-404, shall be required to provide public financial information through the Utah Public Finance Website or their own website and provide a link to their website through the Utah Public Finance Website:

(i) counties;

(ii) municipalities;

(iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, that are not already required to report; and

(iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

(b) Participating local entities subject to this Subsection (2) shall permit information that is generated not later than the fiscal year that begins July 1, 2010 to be accessible via the

459 website.

460 (3) (a) Not later than May 15, 2012, the following participating local entities, in
461 conformity with the rules established under Section 63A-3-404, shall be required to provide
462 public financial information through the Utah Public Finance Website or their own website and
463 provide a link to their website through the Utah Public Finance Website:

464 (i) school districts; and

465 (ii) charter schools.

466 (b) Participating local entities subject to this Subsection (3) shall permit information
467 that is generated not later than the fiscal year that begins July 1, 2011, to be accessible via the
468 website.